IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc. No.15536-M of 2007
Date of Decision:- 13.11.2007

Mohinder Kumar Mukhi ....Petitioner(s)

through
Mr.Binderjit Singh, Advocate

vs.

Neelam Mukhi & another ....Respondent(s)

through
Mr.Aman Kashyap, Advocate.

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CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

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1) Whether Reporters of the local papers may be allowed to see the judgment?
2) To be referred to the Reporters or not?
3) Whether the judgment should be reported in the Digest?

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SURYA KANT, J. (ORAL)

In this petition under Section 482 Cr.P.C., the petitioner is aggrieved at the orders dated 15.12.2005 (Annexure P-9) passed by the learned Judicial Magistrate, Ist Class, Chandigarh as well as the order dated 13.1.2007 (Annexure P-11) passed by the learned Additional Sessions Judge, Chandigarh whereby interim maintenance has been granted to the respondents. It may be noticed here that while the learned Judicial Magistrate had granted interim maintenance at the rate of Rs.500/- per month i.e. Rs.1000/- per month to both the respondents, the same has been enhanced to Rs.1500/- per month each i.e. Rs.3000/- per month to both the respondents by the learned Additional Sessions Judge, Chandigarh.

The petitioner is husband of respondent No.1 whereas respondent No.2 is their minor son.

During the course of hearing, learned counsel for the petitioner

does not press this petition qua respondent No.2 i.e. his minor son. He, however, contends that respondent No.1 has sufficient means to maintain herself, therefore, there was no occasion to grant interim maintenance to her. It is also contended that since respondent No.1 has already been held guilty of deserting the petitioner in the divorce petition and the decree of divorce obtained by the petitioner was upheld by this Court as well, therefore also, respondent No.1 is not entitled to the grant of any maintenance. Lastly, it is contended that the disposal of main petition under Section 125 Cr.P.C. is also being delayed by the respondents as respondent No.1 is not leading her evidence despite several opportunities given by the learned trial Court.

After hearing learned counsel for the parties and having gone through the material on record, I am of the considered view that no interference in the impugned order dated 13.1.2007 passed by the learned Additional Sessions Judge, Chandigarh is called for. On the basis of material on record, it has been observed by learned Additional Sessions Judge that the petitioner is getting a monthly salary of Rs.9000/-, therefore, grant of interim maintenance of Rs.1500/- to respondent No.1, more so, when admittedly she has no regular source of income like employment etc. is neither excessive nor can be termed as arbitrary.

As regard to the inordinate delay of the petition under Section 125 Cr.P.C., though no direction can be issued to the learned trial Magistrate to take up the said petition out of turn by ignoring other old cases, if any, however, it does not mean that the learned trial Court shall keep on adjourning the proceedings to give unlimited opportunities to the respondents to lead their evidence. Learned counsel for the respondents

assures that their evidence shall be produced at the earliest.

Having heard learned counsel for the parties and keeping in view all the attending circumstances and without interfering in the impugned order passed by the learned Additional Sessions Judge, this petition is disposed of with a direction to the learned Judicial Magistrate before whom the petition under Section 125 Cr.P.C. is pending, to make an endeavour to dispose of the petitioner's petition as early as possible and preferably within a period of six months.

November 13, 2007 **(SURYA KANT)**
poonam **JUDGE**